IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF NOVEMBER,
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION Nos.23242, 23284 AND 23305 OF 2006

WRIT PETITION No.23242 OF 2006

Between:

M/s.Ravindra Solvent Oils Pvt. Ltd.,
Rep. by its Managing Director
D.Nagendra Babu.

..... PETITIONER

AND

Appellate Deputy Commissioner (CT),
Division No.II, Vijayawada, and others.

....RESPONDENTS

WRIT PETITION No.23284 OF 2006

Between:

M/s.Ravindra Solvent Oils Pvt. Ltd.,
Rep. by its Managing Director
D.Nagendra Babu.

..... PETITIONER

AND

Appellate Deputy Commissioner (CT),
Division No.II, Vijayawada, and others.

....RESPONDENTS

WRIT PETITION No.23305 OF 2006

Between:

M/s.Ravindra Solvent Oils Pvt. Ltd.,
Rep. by its Managing Director
D.Nagendra Babu.

..... PETITIONER

AND

Appellate Deputy Commissioner (CT),
Division No.II, Vijayawada, and others.

....RESPONDENTS

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION Nos.23242, 23284 AND 23305 OF 2006

C O M M O N O R D E R
(Per Sri Justice J.Chelameswar)

The petitioner is the same in all the writ petitions. Challenging the proceedings by which a penalty of an amount of five times the tax, which is alleged to have escaped in three different assessment years, being 2001-2002, 2002-2003 and 2003-2004, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal.

The dispute in these writ petitions is that the penalty proceedings revolves around the fact whether the petitioner was entitled to be assessed at a lower rate of tax on the sales made by the petitioner or totally exempted on the strength of Form-F declaration given by the purchasers who are claiming to be a registered dealers in the Union Territory of Pondichery and Tamilnadu. The assessing authority, it appears, recorded a finding that the transactions are not genuine. The appellate authority while confirming the finding, came to the conclusion that the penalty is to be levied in accordance with the provisions of Section-7A of APGST Act, but not under the provisions of Section-14 of APGST Act, as was done by the assessing authority.

Aggrieved by the confirmation of the levy of penalty by the 1st appellate authority, the petitioner carried the matter in appeals to the Sales Tax Appellate Tribunal. As the Sales Tax Appellate Tribunal does not have the jurisdiction to grant interim orders during the pendency of the appeal, apprehending that an application seeking stay to be made to the Additional Commissioner concerned would be rejected, the present writ petitions are filed.

Heard the learned Government Pleader.

In the circumstances, we are of the opinion that the writ petitions can be disposed of at the admission stage itself by directing the respondents not to take any coercive steps for recovery of the penalty with reference to each of the abovementioned assessment years during the pendency of the appeals before the Sales Tax Appellate Tribunal,
on condition of the petitioner depositing one-fourth of the amount of penalty with reference to each of the abovementioned assessment years, within a period of six weeks from today.

Having regard to the nature of the allegations and the magnitude of the amounts involved, we deem it appropriate to direct the Sales Tax Appellate Tribunal to dispose of the appeals, as expeditiously as possible, preferably within a period of twelve weeks from today.

With the above direction, the writ petitions are disposed of.

JUSTICE J.CHELAMESWAR

JUSTICE D.APPA RAO

10th NOVEMBER, 2006

Note: Issue copy in one week.
(B/O) PGS

THE HON'BLE MR JUSTICE
J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE
D.APPA RAO

WRIT PETITION Nos.23242, 23284 AND 23305 OF 2006
(Per Sri Justice J.Chelameswar)

10th NOVEMBER, 2006